

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

BRANDON SHAY ANDERSON)

Plaintiff,)

v.)

CASE NO. 2:16-CV-142

GEORGE LEWIS, individually)
and as an Officer of the Bristol,)
Tennessee Police Department and)
JIMMY DILLARD, individually)
and as an Officer of the Bristol)
Tennessee Police Department,)

Defendants.)
_____)

PLAINTIFF'S RESPONSES TO DEFENDANTS'
STATEMENT OF UNDISPUTED MATERIAL FACTS

1. On May 31, 2015, Plaintiff Brandon S. Anderson was subjected to a traffic stop at approximately 11:45 p.m. by Officer George Lewis. [Complaint, Doc. 1, ¶¶ 9 and 11, PageID # 3]

RESPONSE: Admitted.

2. Plaintiff Anderson, when requested by Officer Lewis to provide his driver's license, indicated he did not have his license – presumably meaning he did not have it in his possession. [Complaint, Doc. 1, ¶ 13, PageID # 3]

RESPONSE: Admitted.

3. Plaintiff Anderson thereafter provided Officer Lewis his name and date of birth as Harry Anderson, III with a date of birth of October 4, 1977. These representations by Plaintiff Anderson were false. [Complaint, Doc. 1, ¶ 14, PageID # 3]

RESPONSE: Admitted.

4. After Plaintiff Anderson exited his vehicle a physical struggle occurred between Plaintiff Anderson and Officers Lewis and Dillard and the Plaintiff was apprehended, handcuffed and placed lying on the ground. [Complaint, Doc. 1, ¶ 19, PageID # 4]

RESPONSE: Admitted.

5. Plaintiff Anderson was charged with resisting arrest under *Tenn. Code Ann.* § 39-16-602; identity theft under *Tenn. Code Ann.* § 39-14-150 and running a red light under *Tenn. Code Ann.* § 55-8-110. [Ex. 1, Memo. of Law and Fact, Affidavit of Complaint dated June 1, 2015]

RESPONSE: Admitted.

6. The Plaintiff was indicted by a grand jury on the charges placed against him by Officer Lewis. [Ex. 2, Memo. of Law and Fact, Indictment dated November 15, 2016]

RESPONSE: Admitted.

7. On March 21, 2017, Plaintiff Anderson was convicted by a jury of resisting arrest and identity theft. [Ex. 4, Memo. of Law and Fact, Criminal convictions]

RESPONSE: Admitted, but Plaintiff states that he was found guilty of Count 1 Identity Theft and found not guilty of Count 2 Identity Theft.

8. At the time Plaintiff Anderson was stopped by Officer Lewis on May 31, 2015, he had an outstanding warrant out of Sullivan County for "Violation of Community Corrections Probation Supervision". [Ex. 3, Memo. of Law and Fact, Warrant]

RESPONSE: Admitted.

9. Plaintiff Anderson had not been sentenced at the time of the filing of this dispositive motion.

RESPONSE: Admitted.

RESPECTFULLY SUBMITTED,

By: s/Cheryl E. LaNasa
Cheryl E. LaNasa (BPR #023913)

By: s/Mark W. McFall
Mark W. McFall (BPR # 029549)

LANASA & MCFALL, P.C.
300 East Main Street, Suite 304
Johnson City, Tennessee 37601-5705
(423) 232-0600 (Phone)
(423) 232-7100 (Fax)
cheryl@lanasaandmcfall.com
mark@lanasaandmcfall.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Plaintiff's Report of Intent to Proceed has been served upon all counsel of interest in this case, by delivering a true and exact copy to the offices of counsel of record shown at the address below or by electronically filing a copy with the United States District Court, Eastern District of Tennessee.

K. Erickson Herrin, Esq.
HERRIN, BOOZE & McPEAK
515 East Unaka Avenue
P. O. Box 629
Johnson City, TN 37605-0629

This the 9th day of August 2017.

By: /s Mark W. McFall
Mark W. McFall